

SENATE BILL 1113

By Jackson

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 17, Part 13 and Title 40, Chapter 29, relative to restoration of citizenship rights.

WHEREAS, Tennessee has long provided that citizens who have been convicted of crimes could be restored to their full rights as citizens of this state upon completion of their sentences; and

WHEREAS, Tennessee's current restoration of rights laws contain at least three restoration procedures and have proven to be ineffective and unworkable; and

WHEREAS, A clear, concise and effective method should be available for persons who have paid their debts to society to be restored to the full rights bestowed upon others; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 40-29-101 through 40-29-105, inclusive, are amended by deleting such sections in their entirety and by substituting instead Sections 2 through 6, inclusive, of this act.

SECTION 2. This act shall be known and may be cited as the "Restoration of Citizenship Rights Act of 2003".

SECTION 3. The purpose of this act is to amend and supplement current law for the purpose of establishing a single procedure pursuant to which those persons who have been convicted of a crime by any state or federal court and who have consequently had one (1) or more of their rights or privileges of citizenship impaired may, upon full completion of their sentence, seek and obtain a full and complete restoration of their rights and privileges as citizens of this state, including, but not limited to, the rights to vote, to sit on a jury and to seek and hold public office.

SECTION 4.

(a) Notwithstanding any other provision of law to the contrary, a person who at any time has been deprived of any rights or privileges of citizenship by virtue of any judgment of any court, whether state or federal, may seek restoration of the complete and full rights of citizenship, including, but not limited to, the right to vote, the right to sit on a jury and the right to seek and hold public office, pursuant to the procedures set forth in this act.

(b) A person who has been deprived of any rights or privileges of citizenship pursuant to a conviction under which the maximum possible sentence of incarceration is less than one (1) year shall be automatically restored effective upon the earlier of:

- (1) The service or expiration of the maximum sentence imposed; or
- (2) Receiving a pardon.

(c)(1) A person who has been deprived of any rights or privileges of citizenship pursuant to a conviction under which the maximum possible sentence of incarceration is one (1) year or more may seek restoration by filing a petition for restoration in the circuit court of the person's county of residence or in the circuit court of the county in which the judgment was entered.

(2) The petition may be filed at any time after the earlier of the following:

- (A) Receiving a pardon;
- (B) Being granted final release from incarceration or supervision by the board of probation and parole or county correction authority; or

(C) Expiration of the maximum sentence imposed by the court; provided, that a person convicted of a Class A felony shall not be eligible to file such petition until ten (10) calendar years after expiration of the maximum sentence imposed by the court and release from confinement and all probation or parole supervision.

(3) The petition shall set forth the basis for eligibility for restoration and shall be supported by certified records, statements and other documents or information to demonstrate that the petitioner is eligible for relief under this chapter. The presumption shall be that the petition shall be granted unless the state or federal government which rendered the underlying judgment demonstrates by clear and convincing evidence that the petitioner is not entitled to relief under this chapter or other applicable provisions of law.

(4) Prior to acting on any petition, the court shall notify the district attorney general in whose county the petitioner resides, and to:

(A) The district attorney general in the county in which the conviction was rendered; or

(B) If a conviction is by a federal court, to the United States attorney in the jurisdiction that rendered the judgment. The notice shall state that a petition for restoration has been filed by the petitioner and that the petition shall be automatically granted by the court unless a specific objection to restoration is filed within thirty (30) days of the date of the notice.

(5) If no objection is filed with the court and served on the petitioner by those persons receiving notice under subdivision (4), the petition shall be granted by the court and an order issued. The court shall send a certified copy of the order to the state coordinator of elections and to the administrator of elections of the county in which such person resides.

(6) All costs for a proceeding under this section shall be paid by the petitioner unless the court orders otherwise. The court shall order that the costs of the proceeding shall be paid by any governmental agency that opposes a petition under this chapter without factual and legal grounds for doing so and, under such circumstances, the court shall award to the petitioner reasonable costs and attorney's fees.

SECTION 5. Notwithstanding any law to the contrary, a pardon by the governor for any offense shall automatically restore to such person all the person's civil rights, including, but not limited to, the rights to vote, to sit on a jury and to seek and hold public office, and shall fully restore to such person the right to purchase and own firearms.

SECTION 6. All pardons and restorations effected under prior Tennessee law are grandfathered hereunder and, without limiting whatever rights were granted under prior law, shall have the same legal effect as a restoration obtained pursuant to this act, including, but not limited to, the rights to vote, to sit on a jury and to seek and hold public office.

SECTION 7. Tennessee Code Annotated, Section 39-17-1301 is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) "Crime of violence" means a felony conviction under the laws of Tennessee or any other jurisdiction for only the following offenses or the attempt to commit the following offenses: any degree of murder, voluntary manslaughter, child rape, aggravated rape, rape, aggravated sexual battery, aggravated robbery, especially aggravated robbery, carjacking, aggravated burglary, especially aggravated burglary, burglary of a dwelling by day or night under prior law, aggravated assault, aggravated kidnapping, especially aggravated kidnapping, aggravated arson and aggravated child abuse.

SECTION 8. Tennessee Code Annotated, Section 39-17-1301 is amended by adding a new subdivision thereto, as follows:

(16) "Felony drug offense" means a conviction under the laws of Tennessee or any other jurisdiction for a felony offense, a conspiracy to commit a felony offense or an attempt to commit any felony offense which includes as a statutory element any controlled substance, provided, that a conviction for a felony drug offense involving a Schedule VI controlled substance shall not apply to this part following ten (10) calendar years from the lawful expiration of the person's sentence, probation, parole or other form of release.

SECTION 9. Tennessee Code Annotated, Section 39-17-1307(b), is amended by deleting such subsection in its entirety and by substituting instead the following:

(b) A person commits an offense who possesses a handgun and:

(1) Has been convicted of a crime of violence as specified in Section 39-17-1301(2); or

(2) Has been convicted of a felony drug offense as specified in Section 39-17-1301(16).

SECTION 10. Tennessee Code Annotated, Section 39-17-1351(j)(3), is amended by deleting such subdivision in its entirety and by substituting instead the following:

(3) The applicant, who having been deprived of any rights of citizenship by the judgment of any state or federal court, has had his or her rights of citizenship restored pursuant to procedures set forth within Title 40, Chapter 29, or other federal or state law; provided, the provisions of this subdivision shall not apply to a person who has been convicted of a crime of violence as defined in § 39-17-1301(2) or a felony drug offense as defined in § 39-17-1301(16).

SECTION 11. Tennessee Code Annotated, Section 40-20-114, is amended by deleting the language "by a court of competent jurisdiction" and by substituting instead the language "pursuant to Title 40, Chapter 29".

SECTION 12. This act shall take effect July 1, 2003, the public welfare requiring it.

